

## COURT OF FIRST INSTANCE

**Judgment of the Court of First Instance of 12 February 2009 — Sara Lee/DE NV v OHIM — Cooperativa italiana di ristorazione (PIAZZA del SOLE)**

(Case T-265/06) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community figurative mark PIAZZA del SOLE — Earlier national and international word marks PIAZZA and PIAZZA D'ORO — Relative ground for refusal — Lack of likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 — Lack of similarity of the signs)*

(2009/C 82/40)

Language of the case: French

### Parties

*Applicant:* Sara Lee/DE NV (Utrecht, Netherlands) (represented by: C. Hollier-Larousse, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Cooperativa italiana di ristorazione Soc. coop. rl (Reggio d'Emilia, Italy) (represented by: D. Caneva, lawyer)

### Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 5 July 2006 (Case R 235/2005-2) concerning opposition proceedings between Sara Lee/DE NV and Cooperativa italiana di ristorazione Soc. Coop. rl.

### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders Sara Lee/DE NV to pay the costs.

<sup>(1)</sup> OJ C 294, 2.12.2006.

**Judgment of the Court of First Instance of 20 February 2009 — Commission v Bertolete and Others**

(Joined Cases T-359/07 P to T-361/07 P) <sup>(1)</sup>

*(Appeal — Public service — Contract staff of OIB — Former salaried employees under Belgian law — Change of applicable regime — Commission decisions fixing remuneration — Equal treatment)*

(2009/C 82/41)

Language of the cases: French

### Parties

*Appellant:* Commission of the European Communities (represented by: D. Martin and L. Lozano Palacios, acting as Agents)

*Other parties to the proceedings:* Marli Bertolete (Woluwe-Saint-Lambert, Belgium) and the eight other members of the contract staff of the Commission of the European Communities whose names are included in the annex to the judgment; Sabrina Abarca Montiel (Wauthier-Braine, Belgium) and the 19 other members of the contract staff of the Commission of the European Communities whose names are included in the annex to the judgment; Béatrice Ider (Halle, Belgium); Marie-Claire Desorbay (Meise, Belgium); and Lino Noschese (Braine-le-Château, Belgium) (represented by: L. Vogel, lawyer)

### Re:

Three appeals brought against the judgments of the Civil Service Tribunal of the European Union (Second Chamber) of 5 July 2007 in Case F-26/06 *Bertolete and Others v Commission* (not yet published in the ECR); Case F-24/06 *Abarca Montiel and Others v Commission* (not yet published in the ECR); and Case F-25/06 *Ider and Others v Commission* (not yet published in the ECR), seeking to have those judgments set aside.

### Operative part of the judgment

*The Court:*

1. Sets aside the judgments of the Civil Service Tribunal (Second Chamber) of 5 July 2007 in Case F-26/06 *Bertolete and Others v Commission* (not yet published in the ECR), Case F-24/06 *Abarca Montiel and Others v Commission* (not yet published in the ECR) and Case F-25/06 *Ider and Others v Commission* (not yet published in the ECR);
2. Dismisses the actions brought by the applicants at first instance, namely Marli Bertolete and the eight other members of the contract staff of the Commission of the European Communities whose names are included in the annex, Sabrina Abarca Montiel and the 19 other members of the contract staff of the Commission of the European Communities whose names are included in the annex, Béatrice Ider, Marie-Claire Desorbay and Lino Noschese;

3. Orders the applicants at first instance and the Commission to bear their own costs.

<sup>(1)</sup> OJ C 283, 24.11.2007.

**Order of the Court of First Instance of 13 February 2009  
— Vitro Corporativo v OHIM — Vallon (√)**

(Case T-229/07) <sup>(1)</sup>

**(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)**

(2009/C 82/42)

Language of the case: Spanish

**Parties**

*Applicant:* Vitro Corporativo, SA de C.V. (Nuevo Leon, Mexico) (represented by: J. Botella Reyna, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. López Fernández de Corres, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Vallon GmbH (Horb, Germany)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 7 November 2006 (Case R 1363/2005-1) concerning opposition proceedings between Vitro Corporativo, SA de C.V. and Vallon GmbH.

**Operative part of the order**

1. There is no longer any need to adjudicate in the action.
2. The applicant is ordered to pay the costs.

<sup>(1)</sup> OJ C 199, 25.8.2007.

**Order of the Court of First Instance of 10 February 2009  
— Okalux v OHIM — Ondex (ONDACELL)**

(Case T-126/08) <sup>(1)</sup>

**(Community trade mark — Opposition proceedings — Failure to pay the opposition fee — Decision deeming the opposition non-existent — Action manifestly devoid of any legal basis)**

(2009/C 82/43)

Language of the case: German

**Parties**

*Applicant:* Okalux GmbH (Marktheidenfeld, Germany) (represented by: M. Beckensträter, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Ondex SAS (Chevigny-Saint-Sauveur, France)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 22 January 2008 (Case R 1384/2007-4) regarding opposition proceedings between Okalux GmbH and Ondex SAS.

**Operative part of the order**

1. The action is dismissed.
2. Okalux GmbH is ordered to pay the costs.

<sup>(1)</sup> OJ C 116, 9.5.2008.